SciencesPo. GEM Groupe d'Économie Mondiale

Working Paper
June 2010

Preferential Agreements in Maritime Transport

The current and the outdated

Fabien BERTHO[1]

The main goal of this paper is to present old and new generations of institutional arrangements granting preferences in maritime transport. We show that most of the old framework is outdated. We show that the new framework could lead to a substantial increase in preferences.

Introduction

Every service market is very particular, with respect to its organization, rule-making, impediments to trade, and the degree of liberalization achieved. The main objective of this article is to produce a sectoral study of maritime transport with a focus on preferential treatment. The General Agreement on Trade in Services (GATS) entered in force in 1995. Before GATS, a few Preferential Trade Agreements (PTAs) contained provisions that related to the liberalization of trade in services. Preferential treatment was granted through sector specific or horizontal agreements.

Since 2000, we have witnessed a boom of PTAs in services (under article V of GATS). Maritime transport was no exception. Thus, in the sector, the pre-GATS preferential scheme comprised bilateral sector specific agreements called Bilateral Maritime Agreements (BMAs) and a multilateral treaty, the Convention on a Code of Conduct for Liner Conferences (UN Liner Code hereafter). In the post-GATS scheme, most preferences are granted through service-specific provisions contained in PTAs.

The first objective of this paper is to show, a paradigm shift from a protectionist (and even exclusionary) to a more liberal treatment of preferences in bilateral maritime transport agreements from the early 1990s. This movement accelerated in 2000 with the development of PTAs in services. The second objective is to show that most of the old framework is outdated. The third objective is to show that the potential preferences granted within the new framework are substantial for some countries. Our analysis is based on agreements signed by 30 countries[2] between 1960 and 2009. The sample represents 224 BMAs and 49 PTAs.

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[1] Groupe d'Economie Mondiale (GEM) at Sciences-Po, Paris. I would like to thank Pierre Latrille and Martin Roy (WTO Secretariat), Patrick Jomini (Australian Productivity Commission) and Fabien Joret (French Ministry of Sustainable Development) for extremely helpful discussions and comments. All remaining errors are mine. Contact: fabien.bertho@sciences-po.org.

[2] Algeria, Australia, Brazil, Canada, Chile, China, Colombia, Egypt, France, Germany, Hong-Kong, India, Indonesia, Italy, Japan, Malaysia, Mexico, Morocco, New Zealand, Russia, Saudi Arabia, Singapore, South Africa, South Korea, Spain, Sweden, Thailand, Turkey, United Kingdom, United States.

The paper is organized as follow. In the first part we will assess the theoretical impact of preferences on welfare. We will review the growing literature on preference to connect it to maritime transport. In the second part we will describe the "old preferential scheme". We will focus on the applicability and the implementation of bilateral reservations of cargo, the main mechanism by which preferences are granted/defined. In the third part we will describe the new preferential scheme. We will focus on a comparison between preferential commitments and GATS commitment of countries in maritime transport.

1 Economics of preferences in Maritime Transport[3]

There is a large and established literature on the economics of tariff preferences for goods, from static theory on trade creation and trade diversion (Viner) to dynamic theory on location and agglomeration effects (Krugman, Venables, De Melo or Panagariya), and on economies of scale and competition (Corden, Bhagwatti, Krugman). The economic analysis of preferences in services grew naturally with the development of PTAs in services (under article V of GATS). In this part we apply the theory on the economics of preferences in service to maritime transport. We describe the measures employed most often to grant preferences and explain their likely impact on welfare – from a static and a dynamic point of view. Our interest is not only in international shipping but also in auxiliary services and preferences relative to access to ports and related services. We focus on modes 1 and 3.

Cargo Sharing Agreements (CSAs) are a very particular form of preferences that are granted in transport, and especially in international shipping. These agreements establish a system of "cargo reservation" between two partners based on shares of bilateral or international trade transported by sea. These shares can be expressed in terms of trade volume/value, in fixed proportions. Reservation can be put on all freight, on specific types of cargo or on specific traffic. CSAs could be seen as an exception to the Most Favoured Nation (MFN) principle in cross border trade. However, contrary to the majority of measures granting preference it is not a second best opening measure. Actually, CSAs are a pure protectionist measure that excludes third countries. In principle, CSAs work like a simple quota. This implies that the Vinerian theory of trade creation and diversion does not apply in analysing CSAs. Hence, this preference is necessarily welfare reducing for the country that grants the preference – by increasing the price for the consumer. Moreover as stated in Mattoo et al. (2008) "*in the case of goods, the quota rents can be appropriated by domestic intermediaries* [..] that are better placed to obtain import licences [..] *like the importer rather than the foreign exporter. However intermediation is difficult because the service is not storable and directly supplied by producers to consumers. Rents are therefore usually appropriated by exporters rather than domestic importers*. Finally, we often observe a misunderstanding on what a CSAs is and its potential effect on welfare. For instance, McGuire et al.

[3] This part is inspired from Fink and Mattoo (2002) and Mattoo and Sauvé (2008)

(2000) compute a bilateral preference index in maritime transport in which they assume that "*Economies with bilateral agreements on cargo sharing are considered to be more liberal than those economies without such agreements*". This is a wrong interpretation[4].

Moreover, in maritime transport many impediments to trade increase the variable cost of production for foreign providers. Nevertheless, these impediments are regulatory. They are purely frictional and do not generate revenue for local agents – like tariff revenues or quota rents, for instance. These impediments include requirements necessary to establish a commercial presence such as particular form of enterprise or limitations on foreign ownership. There is also possible discrimination in the access to port and related services[5]. In evaluating the impact of these impediments on variable costs, the analysis of preferential treatment is analogous to the analysis of tariffs on goods (Mattoo et al., 2001), but the conclusions are quite different. In the absence of a counterpart for local agents there are no revenue losses, no risk of trade diversion. Preferential liberalization is necessarily welfare-enhancing. But preferential liberalization is second best, because multilateral liberalization will always be more efficient.

Impediments to trade could also affect the fixed costs of production for foreign providers. They could increase the fixed costs associated with establishing cross border trade. For instance, in maritime transport, countries require foreign companies that want to operate a line or provide an auxiliary service (in mode 1), to establish a commercial presence on the territory. Impediments to trade can also increase the fixed costs of establishment (in mode 3), imposing burdensome and costly licensing process to foreign providers. Eliminating such impediments preferentially is likely to enhance welfare. However, this welfare gain would depend on the efficiency of the partner's providers (Mattoo at al., 2001). The greater a country's openness vis-à-vis the rest of the world, the more it will benefit from liberalization[6].

The number of providers in some service sectors are limited because of market failures. This is the case for some auxiliary services such as cargo handling or storage and warehousing because of the existence of economies of scale and because of the scarcity of port space. Generally, companies that

[4] Actually in only one case CSAs are not purely exclusionary. Indeed, a common policy in maritime transport has been to reserve cargo unilaterally – i.e. a country reserves a type of cargo for its own vessels (flying the flag or operated by domestic companies). Although, if a country reserves unilaterally a type of cargo and if this cargo is at the same time shared bilaterally under a CSA, it represents a second best opening measure. The best example is the US-Brazil CSA. The United States reserve government-controlled cargo for US flagged vessels and this type of cargo is shared under the CSA with Brazil. Nevertheless, today most of the unilateral cargo reservations disappeared, this case is rare or even non-existent.

[5] Discriminations could be put on access to berth, quays or to cargo handling facilities. They do not generate additional revenues. On the opposite discrimination on ports charges and fees generate a revenue for local agents.

[6] Nevertheless, licensing or establishment requirements could be necessary for information asymmetries issues - such as security, safety, etc... In Canada, a foreign company who wants to operate an international line to or from Canada must open an office in the country. This requirement enable Canada to have jurisdiction over the company in case of shipwreck for instance.

want to provide these types of services must obtain concessions from port authorities through auctions or tenders (in absence of competition in the market, port authorities introduce competition for the market). In such circumstance, preferential liberalization could exclude the most efficient investors from the concession allocation process. Although, if the selected provider is not the most efficient there is an opportunity cost in terms of price, quality or positive spillovers. Hence, according to Fink et al. (2008) non-discriminatory liberalisation predominates preferential liberalization. Again, the greater a country's openness vis-à-vis the rest of the world, the more it will benefit from liberalization. The adoption of liberal rules of origin in preferential agreements could furthermore limit this risk[7] (Mattoo et al., 2008).

From a dynamic point of view, liberalization on a preferential basis could affect the long term efficiency of the sector. First, concessions in auxiliary services are often allocated for long period. For instance, according to the World Bank the average length of Build-Operate-Transfer seaports contracts exceeds thirty years (World Bank, 2009). Second, sunk costs could be high. They confer a long term advantage to first newcomers.

Finally, as preferential liberalization in goods, enlarging the market under preferential liberalization in services is likely to lead to both economies of scale and increased competition. Granting preferential access to a partner could also attract FDI through enlarging the market or by making a country's reforms more credible. Preferential liberalization could as well be seen as a first step before MFN liberalization – conditional to programming further opening and remaining open vis-à-vis the rest of the world.

2 Old preferential scheme: hollow and empty shells

The old scheme comprises two kinds of institutional arrangements: the sector-specific bilateral agreements and a sector-specific multilateral treaty. In this section, we provide a broad picture of both arrangements – i.e. signatories, signature timing and content. We explain how such arrangements grant preferences to the partners. We assess the applicability and implementation of agreements - and above all, the implementation of provisions on bilateral cargo reservations.

[7] In services, liberal rules of origin allow all suppliers established in the territory of a party to benefit from the access provided by the agreement as long as they carry on substantial business activities there (Marchetti and Roy, 2008)

2.1 Bilateral Maritime Agreements

BMAs are agreements on commercial shipping and maritime transport[8]. They deal with many sectoral issues such as the recognition of documents, rights of crews, vessels in distress, etc,… In this part, we only focus on three types of provision that grant commercial preferences to the partner. The first type is very specific to the sector: Cargo Sharing Agreement (CSA). These agreements establishes between the two partners a system of "cargo reservation" based on shares of bilateral or international trade transported by sea. The second type includes provisions granting preferential access for vessels to ports and related services. The third type includes provisions granting preferences in connection with commercial presence.

An exhaustive study is difficult because BMAs are plentiful, their diffusion is politically sensitive and texts are not always available. We listed 224 agreements from three main sources: UN Treaty database, Ministries of Transport and Ministries of Foreign Affairs - which are competent in term of bilateral treaties. Among these 224 agreements 68 texts are not available[9]. We focus on the 156 remaining agreements.

2.1.1 Cargo Sharing Agreements in BMAs

We encounter most of CSAs in BMAs – and a few in south-south PTAs. Nevertheless, all BMAs do not contain CSAs provisions. CSAs could take different forms. Ideally the agreement describes clearly the preference:

- The kind of cargo reserved. The reservation could apply to all freight, with or without exceptions, a type of traffic (e.g. liner), a type of good (e.g. coal, oil), a type good ordered by specific clients (e.g. government-controlled cargo[10]) or a type of good subject to certain types of financing (e.g. goods benefiting from official fiscal or credit programmes);

- The kind of vessels that could transport the shared cargo: the flag that it flies, whether is chartered by a national company, operated[11] by a national companies or by an authorized companies, etc.

- The type of sharing: equal between partners (50%-50%), equal with a third country (1/3 – 1/3 – 1/3) or 40-40-20 (40% for partners and 20% for third countries, like UN liner)[12].

[8] We exclude double taxation treaties on transport (air and maritime), treaties on maritime boundaries or maritime search and rescue agreements which are not relevant for our analysis.

[9] For a detailed description of BMAs, see Annex 1.

[10] « Government-controlled cargo » means cargo, all or some portion of which under the law of the Party is reserved for transportation by its national-flag carriers.

[11] Chartering is the process of leasing a vessel. Operating is the process of using a vessel to transport a cargo. A vessel could be operated by its owner or by a company which charter a vessel.

We find CSAs in Brazilian, Indian, Mexican, Spanish, US and most of Algerian agreements – see Table 1. By contrast, in many agreements, CSAs might not openly admitted. These "**confusing agreements**" use vague and obscure expressions, or contradictions that prevent us from identifying CSAs in many BMAs (as explained in Box 2-1). This is the case for Soviet, Chinese and French agreements.

Box 2.1: Examples of "confusing agreements"

Most agreements from the former USSR "[…] *encourage participation by their vessels in marine transport between the ports of their countries* […]" but they "[…] *promote the development of international shipping on the basis of the principles of freedom of navigation* […] and they "*shall not affect the right of vessels of third countries to participate in transport between the ports of one of the Contracting Parties and the ports of the other Contracting Parties"*.

Chinese and intra-Asian agreements are also confusing. They might include a phrase such as "*In accordance with the principle of equality and mutual benefit*". A typical clause might read: "*Vessels of either Contracting Party may sail between the ports of the two countries which are open to foreign trade and engage in passenger and cargo services (hereinafter called the "agreed services") between the two countries or between either country and a third country*", Then "*Chartered vessels flying the flags of third countries acceptable to both Contracting Parties but operated by shipping enterprises of either Contracting Party may also take part in the agreed services*."

Confusing agreements allow partners to implement or not the bilateral reservation. They allow them to retain some flexibility to manoeuvre. This characteristic makes such agreements difficult to analyse. To facilitate the analysis we class the agreements used in this study in four categories. As shown in Table 1, 59 BMAs clearly contain a cargo sharing scheme (38%), 36 agreements clearly do not contain cargo sharing scheme (23%) and 61 agreements are "confusing" (39%).

[12] For instance, according to the US legislation, government-controlled cargo is defined as cargo that is moving either as a direct result of the U.S. Government's involvement or indirectly due to financial sponsorship of a Federal program or under a guarantee provided through the Federal Government.

Table 1: CSAs in BMAs by countries

	CSA	No CSA	Confusing	Unavailable	Total BMAs
Brazil	15	1	3	0	19
Russia (and former USSR)	12	1	23	4	40
Algeria	10	3	6	6	25
Spain	8	0	0	0	8
USA	8	6	1	3	18
India	6	1	0	0	7
Mexico	6	0	1	1	8
France	4	8	13	4	29
China	3	4	15	9	31
Egypt	3	2	0	24	29
Former GDR	2	0	3	0	5
Morocco	2	0	0	1	3
Singapore	2	1	1	1	5
Chile	1	1	0	0	2
Germany (and former FRG)	1	9	2	5	17
Italy	1	0	1	1	3
Malaysia	1	0	2	2	5
South Korea	1	3	2	0	6
Thailand	1	2	1	1	5
Canada	0	0	1	2	3
Colombia	0	0	0	1	1
Indonesia	0	1	0	5	6
Saudi Arabia	0	0	0	1	1
South Africa	0	1	0	15	16
Sweden	0	0	2	0	2
Turkey	0	5	0	4	9
United Kingdom	0	2	0	0	2
Japan	0	0	1	0	1

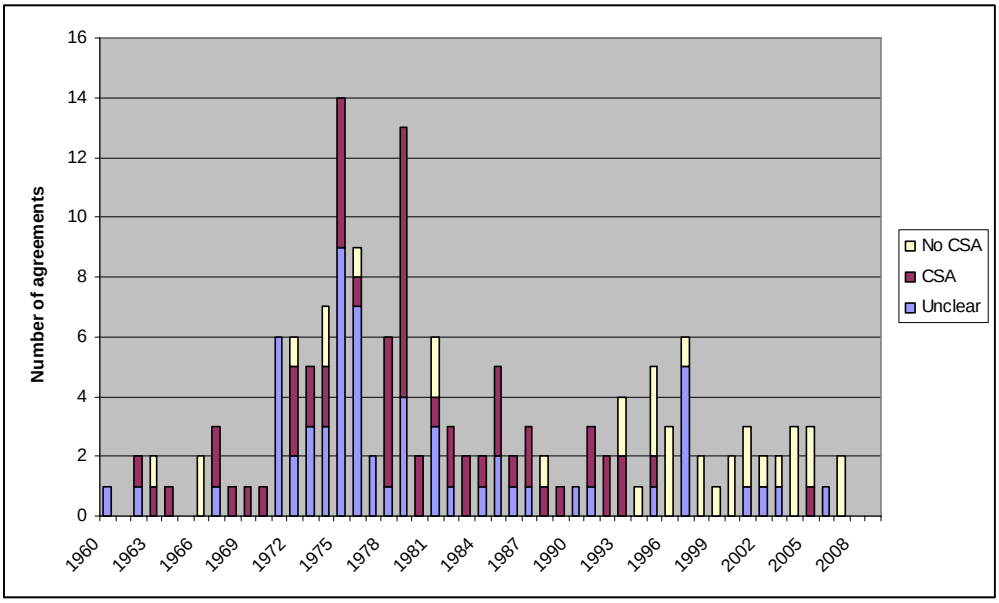
Source: computed by the author, for details see Annex 1.

Notes : includes former, repealed and replaced treaties. Column “unavailable”: text of the BMA is not available.

Bilateral cargo reservation schemes designed by partners in BMAs can be more or less restrictive. For instance, the most protectionist CSAs are found in Latin-American agreements – agreements to which Brazil and Mexico are parties and agreement between Latin-American countries themselves. Bilateral reservations are put on all freight except strategic products like petroleum or ore. Only vessels that fly the national flag are allowed to transport bilateral freight – in some countries a transport company has to be authorized by the government. Spanish agreements reserve liner traffic and make reference to UN Liner Code – i.e. the reserved traffic has to be transported by national shipping companies. Most recent bilateral reservations of the USA are put on government-controlled cargo, which must be transported, on equal share, by vessels that fly the US flag or are chartered by a national company. This type of agreement is still in force with Brazil. Before 1990s, Algeria reserved all freight, which had to be transported in equal shares. French (with North-African countries) and Indian agreements vary across partners and time. Interestingly the restrictive “flying the flag” clause disappears in favour of “flying the flag or operated by a national company” – taking into account the deflaggation process[13].

[13] Requirements to fly the flag are quite restrictive. In general, they include commercial presence, restrictions on foreign ownership and restrictions on employees. Thus, transporting a cargo on a vessel operated by a national company is less restrictive than transporting a cargo on a vessel that fly the flag of the country. The deflagging

Figure 1: CSAs in BMAs from 1960 to 2008



Source: computed by the author, for details see Annex 1.

Notes : includes former, repealed and replaced treaties.

Figure 1 shows an obvious evolution of BMAs across time. BMAs signed recently contain less and less CSAs. This evolution is mainly driven by European Community (EC) countries' (Germany[14], Netherlands, United Kingdom, France) and Turkey's agreements. Since the mid-1990s, agreements are more "liberal". They emphasize freedom of traffic and free choice of the flag.

According to many experts CSAs have disappeared. In the literature they are no longer assimilated to important restrictions in maritime service trade (Fink et alii, 2001). Nevertheless most BMAs have not been repealed explicitly. Moreover, the information on the application of CSAs is very difficult to obtain. The objective of the following is to demonstrate that CSAs are not applied because they are unenforceable.

As we have seen, cargo reserved under CSAs could be transported by vessels that fly the flag of the partner or by vessels chartered/operated by a national company. According to the type of vessels allowed to transport the reserved cargo we checked in the CI-Online database[15] the existence of direct shipping services on routes between partners, the existence of vessels that fly the flag on routes between partners and the existence of national shipping companies on routes between partners.

process have been taking place since the 70's. It consists in the disjunction between the flag of registration and the country of ownership of vessels.

[14] Former Federal Republic of Germany has signed liberal agreements, since the early 1960s.

[15] CI-Online is a database providing information on world liner traffic. The database lists all existing lines between each pairs of countries. For each line it gives the vessels deployed, flags and operator of these vessels.

In the absence of direct service or in the absence of vessels fulfilling the legal conditions set by the agreement to benefit from the cargo reservation on the route we can conclude that the reservation cannot be enforced. Nevertheless, this analysis comprises a bias. Despite in CSAs all freight could be reserved, CI-Online data are only available for liner traffic. Thus, given the absence of information, the work is not feasible for dry and liquid bulk cargo. In reality, most of agreements are applied only to liner traffic because free access and non discrimination generally rule bulk traffic (OECD, 2001).

CSAs could be enforced in 45 bilateral agreements[16]. Most countries involved in these agreements are developing countries. Table 2 takes into account CSAs reserving cargo for vessels flying the flag and Table 3 takes into account CSAs reserving cargo for vessels flying the flag or vessels operated/chartered by national companies.

Table 2: Direct lines and vessels serving on these lines on routes with potential CSAs

Reserved cargo must be transported on vessels that fly the flag

Partners		Direct Lines		Flag's Vessels [a]	
A	B	Carriers	Ships	A	B
Algeria	Bulgaria	X	X	X	X
Algeria	USSR	X	X	X	X
Brazil	Mexico	7	22	X	X
Brazil	Romania	X	X	X	X
Brazil	Uruguay	12	80	10 (19680)	X
Brazil	Ecuador	3	7	X	X
Brazil	Peru	3	7	X	X
Egypt	India	12	84	X	2 (8800)
France	Egypt	20	97	3 (17346)	4 (1301)
India	Pakistan	27	111	X	X
Mexico	Bulgaria	X	X	X	X
Mexico	Netherland	X	X	X	X
Russia (Former USSR)	Pakistan	X	X	X	X
Russia (Former USSR)	Mexico	X	X	X	X
Spain	Equatorial Guinea	X	X	X	X
Spain	Senegal	8	25	X	X
16		**8**		**2**	**2**

Source: CI-Online database, October 2009

Note: Do not include former, repealed and replaced treaties. [a] Number of vessels and in brackets, number of TEU.

As shown in Table 2, 16 agreements reserved cargo for vessels that fly the flag of partners. Among them:

- 8 CSAs cannot be enforced because of the inexistence of a direct line;
- 5 CSAs cannot be enforced because of the absence of vessels flying the flag of the partners;
- For 2 CSAs, sharing bilateral trade is not fully enforceable because just one partner has vessels flying its flag;
- Finally, cargo sharing is only possible for one agreement, which is the French-Egyptian.

[16] i.e. agreements that are available, in force (or that have not been explicitly repealed) and where CSAs could be clearly identified – for detail see annex 1

Although, according to French Ministry of Transport this agreement has never been applied.

Table 3: Direct lines and vessels serving on these lines on potential CSAs routes

Reserved cargo must be transported on vessels that fly the flag or chartered/operated by a national company

Partners		Direct lines		Flying the flag and/or chartered	
A	B	Carriers	Ships	A	B
Algeria	Guinea	X	X	X	X
Algeria	Belgium - Luxembourg	4	11	4 (1020)	X
Algeria	Albania	X	X	X	X
Algeria	Iraq	X	X	X	X
Algeria	Italy	9	18	X	3 (2410)
Algeria	Tunisia	5	14	X	X
Algeria	Egypt	2	6	X	2 (748)
Brazil	Portugal	2	7	X	X
Brazil	Argentina	20	137	16 (39448)	8 (21163)
Brazil	United States	10	42	3 (10569)	X
Brazil	USSR	X	X	X	X
Brazil	Germany (former FRG)	7	37	2 (11881) [b]	5 (28835) [b]
Brazil	Chile	3	7	2 (4123)	2 (4108)
Brazil	Poland	X	X	X	X
India	Poland	X	X	X	X
Malaysia	USSR	1	10	X	X
Morocco	Spain	13	67	7 (5208) [b]	2 (834) [b]
Russia (Former USSR)	Ethiopia	n.a	n.a	n.a	n.a
Russia (Former USSR)	Sri Lanka	1	10	X	X
Russia (Former USSR)	India	1	10	X	X
Singapore	China	41	547	107 (409689)	34 (192269) [b]
Singapore	Viet Nam	20	72	24 (60168) [b]	5 (3828)
South Korea	China	54	606	36 (144988)	137 (489711)
Spain	Gabon	2	6	X	X
Spain	Ivory Coast	5	33	X	X
Spain	Mexico	5	26	X	X
Spain	Russia (Former USSR)	X	X	X	X
Spain	Tunisia	X	X	X	X
Thailand	Bangladesh	X	X	X	X
29		**19**		**9**	**9**

Source: CI-Online database, October 2009

Note: Do not include former, repealed and replaced treaties. [a] Number of vessels and in brackets, number of TEU. [b] Some vessels are registered in one country and chartered by a national company of the other.

As shown in Table 3, 29 agreements reserved cargo for vessels flying the flag of partners or chartered by companies nationally controlled. Among them:

- 10 CSAs are unenforceable because of the inexistence of a direct line;
- For 7 CSAs, a direct line exists on the route but bilateral reservations are unenforceable because of the absence of vessels flying the flag or because of the absence of vessels chartered by companies nationally controlled by both partners;
- For 4 CSAs, sharing bilateral trade is not fully enforceable because one partner has vessels flying its flag;
- Finally, a CSA can only be enforced in 7 agreements which are Brazil-Argentina, Brazil-Germany, Brazil-Chile, Spain-Morocco, Singapore-China, Singapore-Viet Nam and China-South-Korea.

Although, all these agreements are not practicable for different reasons. First, agreements signed by EC countries (Brazil-Germany and Spain-Morocco) are unenforceable because of EC regulation. Indeed, REG 4055/86, states that "*existing cargo sharing arrangements in bilateral agreements with non-Community countries are to be adjusted or phased out*". Second, according to the Chinese authorities, CSAs of which the country is a party have never been implemented (WTO, 2008). Third, Singapore-Viet-Nam agreement signed in 1992 is neither applicable. Singaporean authorities responding in 1995 to WTO questionnaire on maritime transport states Singapore has not entered into any bilateral agreements on cargo-sharing (WTO, 1995). Finally only trade between Brazil and Argentina and Brazil and Chile could be reserved. The implementation of the reservation with Brazil and Argentina has been confirmed by the Brazilian Maritime Transport Agency - Agência Nacional de Transportes Aquaviário (Email communication by ANTAQ, 2009)[17].

In considering confusing agreements, in the absence of precise information on the kind of cargo reserved and on the kind of vessel allowed to transport this cargo our methodology cannot be applied. The only solution to ascertaining whether there are CSAs and if these agreements are applied would have to come from discussions with experts and professionals.

In the former USSR, maritime transport was managed by a government agency that tried to impose 100% Soviet vessels, whatever said the agreement. Most agreements were not denounced by Russian government when the Union collapsed, however, the system disappeared in the early 1990s.

France applied CSAs with Northern African countries: Algeria, Morocco, Tunisia but very imperfectly. For instance, with Morocco, only Roll-on Roll-off (which was the main part of liner traffic at the time between both countries) traffic was reserved. Seventy percent of the traffic was transported by Moroccan operators and thirty percent by French ones. All agreements with North African countries were stopped during the 90's. The agreement with Algeria was denounced and the Tunisian one was renegotiated to be more liberal, in accordance with EC requirements. The situation with West-African countries is more complex. Before the signature of the UN Liner Code, the market was a quasi-monopoly for French operators. Since the end of the 1970s all the traffic has been governed according to the UN Liner Code principles – for details see below. Other CSAs (confused or not) were never applied.

As we saw most of CSAs are inapplicable today. First because of the inexistence of direct line on routes between the two partners. This is due to the development of the Hub and Spoke system in freight shipping – i.e. because of transhipment. Long journeys between the main ports (hubs) of each continents are performed by larger vessels; the distribution of cargo within regions is performed by

[17] The Brazilian Maritime Transport Agency also confirmed that the other CSAs listed are not implemented. This confirms the validity of the methodology used.

smaller vessels called feeders. Second, CSAs are inapplicable in absence of vessels flying the flag of States, this is due to the deflagging process (Fink et alii, 2001). Third, CSAs are inapplicable because of the absence of vessels operated by national companies.

Nevertheless, most of CSAs have never been applied for other reasons. Some agreements were signed between countries with fleets too small to enforce sharing agreements. Other agreements were signed between countries whose bilateral trade was not sufficient to be economically sustainable. Finally, because implementing the cargo sharing scheme is too costly to administer and manage. This latter factor tends to confirm a common thinking in economics of preference in services: due to the nature of trade impediments, it is difficult and costly to grant a preference. Finally most CSAs disappeared at the beginning of 1990's.

Box 2-2: CSA and the GATS[18]

From a GATS point of view, a CSA is an exception to the MFN principle because it grants a market access preference to the partner. A WTO member that wants to maintain a measure which is not consistent with the MFN principle has to comply with some rules. First, according to article II of GATS, it has to register the measure in a list of exemptions. Second, according to the GATS document "G*uide to Reading Schedules of Commitments*", for the exemption to be valid, the member that lists the exemption must not has taken a specific commitment in the related sector – i.e. international shipping in mode one[19]. Third, to be fully and practically covered the exemption has to be taken by both partners because the preference granted through CSA is bilateral and symmetrical.

We reviewed all lists of exemptions taken by members in maritime transport. We found that 23 members list an exemption to article II related with CSA - 18 countries mention CSA explicitly whilst 5 members mention CSAs implicitly. Interestingly, CSA is the most usual exception to the MFN principle we found in lists – for details see annex 2.

Actually, among the 23 members that have listed a CSA, twenty comply with the first two requirements. On the contrary, exemptions that have been listed by China, Philippines and Saudi Arabia are not valid. Then, among 47 agreements of our test case for which an MFN exemption related to CSA is relevant (i.e. available agreements that contain a CSA provision and which have not been repealed) 24 would be perfectly valid and 5 agreements would be valid for only one partner – because of no symmetry. Remaining CSAs comprise at least one non-WTO member.

Note: for more details, see Columns 8 and 9 of Annex 1 and Table in annex 2.

[18] Here, it is important to remind in GATS, maritime transport MFN exemptions are under a special status. According to the "*Decision on Maritime Transport Adopted by the Council for Trade in Services on 28 June 1996"* (S/L/24 WTO document) the MFN principle is suspended for countries that have not taken commitments in maritime transport sectors or sub-sectors.

[19] i.e. the member must neither have listed « none » nor a restriction in its schedule - with one exception if the restriction being listed is in relation to the CSA.

2.1.2 BMAs… What remains?

It would be a mistake to reduce BMAs to CSAs. BMAs can also grant preference in two other fields: commercial presence and access to ports and related services for foreign vessels.

First of all, most BMAs potentially in force contain dispositions on access to port and related services. More precisely, these dispositions deal with:

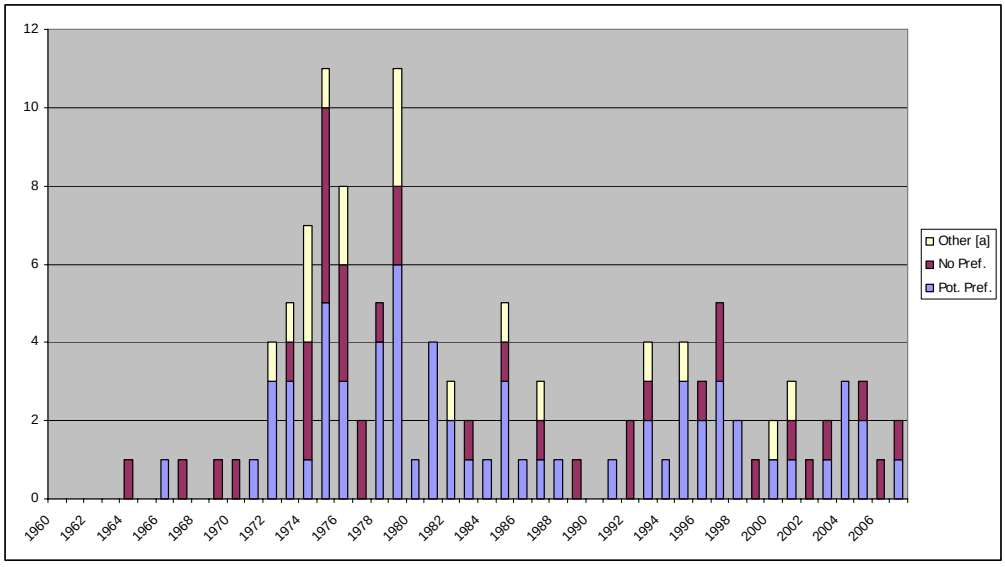
- issues relating to entering, staying in and departing from ports of the country;
- the use of port installations for the loading and unloading of goods, and the embarkation and disembarkation of passengers;
- the performance of all necessary commercial or maritime services and operations, as well as
- the collection of port duties and taxes.

This is a crucial issue considering the importance of port passage in the maritime transport chain - especially in developing countries where discrimination according to the vessel's flags or operators is frequent and where port authorities have large discretionary power[20].
Most of such provisions contained in BMAs are based on MFN or national treatment principles, but they can be based on reciprocity or not – for instance: MFN and reciprocity, national treatment and reciprocity, pure reciprocity. Other provisions are confused. Lastly, we find some unusual provisions, for instance, mixed provisions where the principle applied to port access is national treatment and the principle applied to port charges and dues is MFN.

It is a difficult task to assess the real degree of preferences induced by such provisions. To that end we need to compare preferential regimes to the MFN applied regime (Marchetti and Roy, 2008). In the absence of information on the MFN applied regime we can only describe the potential preference that could be granted. If MFN principles are stated in a provision, then, by definition, there is not preferential treatment. If pure reciprocity, reciprocity and national treatment or pure national treatment principles are stated in a provision, it is necessary to know the applied regime to assess the degree of preference. In figure 2 we divide provisions on access to ports and related services into 'potential preference', 'no preference' and 'other provisions' categories.

[20] Moreover, nowadays a new category of port discrimination arises. Major shipping lines take advantage of the privatization and of the introduction of competition in ports to invest in port terminal operations and enter in auxiliary services markets like cargo handling or storage and warehousing. Some of such companies discriminate giving priority to their own vessels.

Figure 2: Potential preference in access to port and related services in BMAs



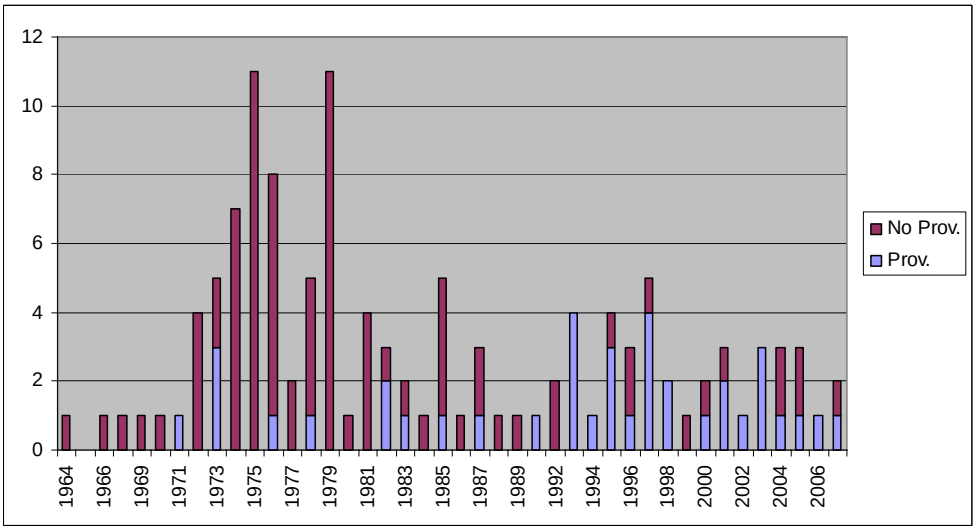
Source: Calculation by the author.

Notes: Do not include former, repealed and replaced treaties. [a] Ambiguous or unusual provisions.

We do not find evidence of a relation between BMAs and periods or countries. We can just note that, from 1970, in percentage there is an increase in the number of BMAs containing potential preference provisions on access to port and related services.

Lastly, commercial provisions in BMAs that grant preferences deal with commercial presence and the right to establishment. They are present in one third of available agreements. The design and signatories of such provisions evolve over time.

Figure 3: Provisions on commercial presence in BMAs



Source: Calculation by the author.

Notes: Do not include former, repealed and replaced treaties.

Chronologically (and surprisingly) we found the first provisions on commercial presence in agreements signed by the Former USSR or its satellites (like Bulgaria or Poland). They call for assistance and facilitation for the establishment of a shipping enterprise's representation in the country of the partner. The clauses do not grant preference because representations are subject to the laws in force in the host country. They are more cooperative than liberalization clauses. As shown in figure 3, from the 1990s we witness the development of such provisions in BMAs. They concern the right for companies to operate as a maritime agency in the partner's country – i.e. exercising commercial activities. Most of such provisions make reference to national treatment. Nevertheless, national treatment is granted "*in accordance with domestic law*" or is "*subject to domestic law*". In practice, this means there is no binding national treatment obligation. Thus, no progress was made in the field of national treatment. From 1993, in some countries' agreements, national treatment principles are stated: EC countries, United States, China and Republic of Korea. Finally just a few agreements seem to grant preferential market access in mode 3: EC-China, France-South-Africa, United States-Viet-Nam and United States-China.

2.2 Potential sharing of cargo under the UN Liner Code

During the seventies we saw the "multilateralization" of bilateral cargo reservation schemes (at least in conference liner shipping) with the introduction of the UN Liner Code. Signed in 1974 and entering in force in 1983, the Convention aimed at developing the shipping sector of developing countries which was made difficult by anticompetitive practices of the existing maritime conferences. It established between the member countries a cargo sharing system applied to trade in liner conferences – which did not affect outsiders. The repartition was the following: 40 percent for the member at each end of the route, 20 percent for third countries. Thus, Article 2 on participation in trade, paragraph 4 states:

"*4. When determining a share of trade within a pool of individual member lines and/or groups of national shipping lines in accordance with article 2, paragraph 2, the following principles regarding their right to participation in the trade carried by the conference shall be observed, unless otherwise mutually agreed:*

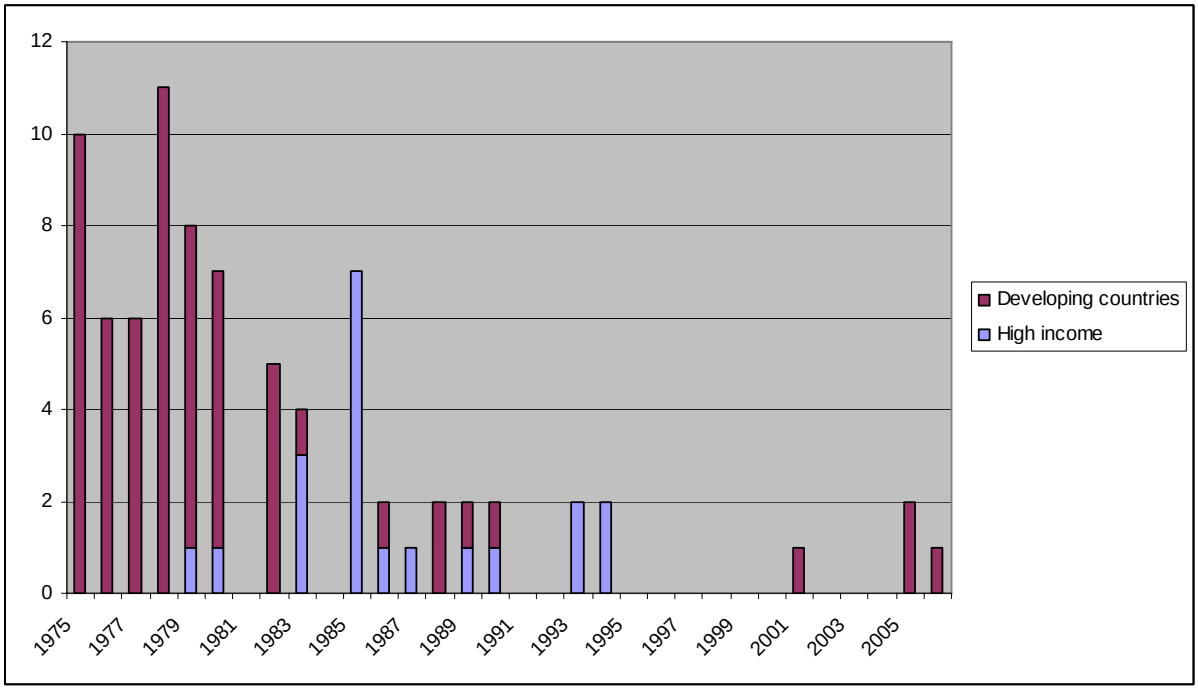
(a) The group of ***national shipping lines***[21] *of each of two countries the foreign trade between which is carried by the conference shall have equal rights to participate in the freight and volume of traffic generated by their mutual foreign trade and carried by the conference;*

(b) Third-country shipping lines, if any, shall have the right to acquire a significant part, such as 20 per cent, in the freight and volume of traffic generated by that trade."

[21] According to the UN Liner code a national shipping line is "*a vessel-operating carrier which has its head office of management and its effective control in that country and is recognized as such by an appropriate authority of that country or under the law of that country.*"

86 countries signed the UN Liner Code and 5 have never ratified it (UN Treaty Database Website, Status of Treaties, 2009). So, 81 members are parties to the Code. We observe two waves of signature. The first one involves developing countries, beginning in 1974; the second involves developed countries[22] (mostly Europeans) from the entry into force in 1983. During the 1990s almost no country signed the UN Liner Code. An important event occurred in 2007, when EC the repealed the regulation which defined the various requirements to be fulfilled by the EC members States when ratifying the Code. From this date all EC members were required to denounce the UN Liner Code to comply with the *Acquis Communautaire*.

Figure 4: UN liner Code ratification



Source: UN Treaty Collection Database

Notes: [a] Developing countries are Algeria, Bangladesh, Benin, Bulgaria, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chile, China, Congo, Costa Rica, Cuba, Democratic Republic of the Congo, Egypt, Ethiopia, Gabon, Gambia, Ghana, Guatemala, Guinea, Guyana, Honduras, India, Indonesia, Iraq, Ivory Coast, Jamaica, Jordan, Kenya, Lebanon, Liberia, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Mexico, Montenegro, Morocco, Mozambique, Niger, Nigeria, Pakistan, Peru, Philippines, Romania, Russian Federation, Senegal, Serbia, Sierra Leone, Somalia, Sri Lanka, Sudan, Togo, Tunisia, United Republic of Tanzania, Uruguay, Venezuela, Zambia. [b] Developed countries are Barbados, Belgium, Czech Republic, Denmark, Finland, France, Germany, Italy, Kuwait, Netherlands, Norway, Portugal, Qatar, Republic of Korea, Saudi Arabia, Slovakia, Spain, Sweden, Trinidad and Tobago and United Kingdom of Great Britain and Northern Ireland.

[22] According to the World Bank Website ranking of 2009.

Again, the literature contains a strong presumption that the Code is not applied. In 2004, Danny Scorpecci, from OECD, declared : "*while the UN Liner Code and its cargo sharing provisions is still in force, very few States are applying it*" (OECD, 2004).

In this respect, each pair of countries which has ratified the Convention has a potential bilateral cargo reservation on their route. As for CSAs in BMAs we proceed by elimination, using CI-Online data. First we check if there are direct services between each country pair. Second, on routes where there are direct services, we check if national companies operate any vessels.

Table 4: Direct services on routes between UN Liner Code members

Routes with no direct service	Routes with direct services			Total
	Routes with no national operator	Routes with operator(s) of one nationality	Routes with operators of both nationalities	
1855	261	51	11	2178
85.2	12.0	2.3	**0.5**	100.0

Source: CI-Online, October 2009

The sample represents 2178 couples of countries. As shown in Table 4, direct service is unavailable on 1855 routes in the sample. Then, on 261 routes at least one direct service exists but no vessel is operated by a company of the nationality of either partners. On 51 routes the existing direct services is operated by at least one national company of either partners. Full implementation of UN Liner Code is unenforceable on 95.5% of the routes. Again, transhipment made the UN Liner Code unenforceable for most of its members.

UN Liner Code can be implemented on 10 routes[23]. All of them concern Asian countries and most of them are routes between two Asian countries. However, according to the literature, and confirmed by maritime transport experts, UN Liner Code was only applied on the traffic between West African and European countries (Fink et al., 2001). Before concluding, few comments are necessary on the application of the Code by West African countries on the routes with European countries. First, West African countries applied the Code extensively – i.e. on all freight. However, the countries' fleet were not sufficient to transport their own share of the reserved traffic. African countries implemented a system of market rights in order to sell these rights to transport their reserved share. Therefore, in West Africa, even if the Code was unenforceable it caused increasing prices of the maritime transport service. It generated rents for foreign companies and corruption in the domestic administration.

To conclude briefly the first part, we can say that CSAs (under BMAs or under UN Liner Code) are not applied because of the prevalence of transhipment. In BMAs, free entry on

[23] Chile-China, India-Malaysia, India-Republic of Korea, India-Saudi Arabia, Republic of Korea-Russia, China-Malaysia, China-Philippines, China-Republic of Korea, China-Saudi Arabia, Malaysia-Korea.

cross border trade in international shipping is mentioned in less than twenty agreements out of 154. Among BMAs mentioning the right to establishment, about ten grant national treatment. Most agreements mentioning the right to establishment are subject to the legislation in force in the countries and do not grant any preference. From a commercial point of view, and with few exceptions, BMAs are hollow and empty shells. One exception concerns provisions on access to port and related services. Most of these provisions grant non discriminatory treatment to the partner. The other exception concerns a few BMAs whose content is close to PTAs like agreements between EC and China and between United States and China. We will address this issue in the next part of the study of which the subject is PTAs.

3 Maritime Transport in PTAs in service (2000 to now)

Since 2000, we have witnessed a boom in agreements under article V of the GATS. Marchetti and Roy (2008) contend that assessing the level of preference granted by this new generation of PTAs is crucial. The authors have done the job for service sectors as a whole. However, due to the specificity of each service, a sector specific analysis is necessary. We did it for maritime transport. The study focuses on 49 agreements currently in force according to the WTO Regional Trade Agreements Information System between countries of in our sample[24].

3.1 PTAs in Maritime Transport, a Big Picture

As shown in Table 5, among the 49 agreements in the sample, 34 contain commitments dealing with maritime transport, 12 do not – the texts of three agreements are not available. Among the 34 agreements containing provisions on maritime transport, 7 call for cooperation and 27 grant true preferences.

Table 5: Treatment of Maritime Transport Sector in PTAs

49 Agreements [a]					
No provision on MT: 12		Agreement with provisions on maritime transport: 34			
		Only cooperation: 7		Agreements granting preference: 27	
G [b]: 10	G&S or S [c]: 2	G [b]: 6	G&S or S [c]: 1	G [b]: 2	G&S or S [c]: 25

Source: Calculation by the author according to WTO (2009) Regional Trade Agreements Information System. http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx

Note: [a] The text of three of them are not available. [b] Under article XXIV of GATT or enabling clause. [c] Under article V of GATS.

[24] For detail see the footnote page 2. In contrast to the first part, EC is taken as a single jurisdiction in this part.

Most PTAs that deal with issue pertaining to trade in goods (i.e. under Article XXIV of GATT or under the enabling clause) do not mention maritime transport sector. Still, we found a few references in PTAs signed between 1980 and 2006. To be specific, peripheral agreements linked to south-south PTAs made a reference to BMAs and CSAs. These agreements include the Maritime Convention of Arab Maghreb Union, signed in 1991, and the ASEAN Resolution On Shipping And Trade, signed in 1980. In contrast, references to the Latin American Integration Association (LAIA) exist in some bilateral agreements of LAIA members. Other PTAs in goods contain provisions on maritime transport. They are cooperative agreements like EC agreements with Egypt, Mexico, Morocco and Tunisia.

The real development of preferential agreements containing provisions relative to maritime transport is subsequent to the GATS and its article V coming into force [25]. Actually, most PTAs in services were signed after 2000. None contains CSAs, since their objective is to liberalize service markets preferentially.

3.2 Comparing provisions in PTAs and GATS commitments in maritime transport

Considering the heterogeneity of impediments to trade in service, assessing the depth of GATS and PTA commitments is a very difficult task. Hoekman, then Roy and Marchetti built a methodology to do so. The first step of their methodology consists in coding the GATS schedule as follows: a full commitment ("none" is inscribed in the schedule) is coded 1, a partial commitment (one or more limitations inscribed in the schedule) is coded 0.5 and no commitment ("unbound" or sector uncommitted in the schedule) is coded 0. However, using the Hoekman methodology we are not able to differentiate between levels of negotiation such as multilateral and preferential one – above all because of the heterogeneity of the limitations in partial commitments. Roy and Marchetti's contribution addresses this issue. They provide a higher score for each improved partial commitment. "*Each improvement was identified adding half the difference between the score 1 and the score of the partial commitment being improved*" (Marchetti and Roy, 2008) – for an illustration see Table 6.

Table 6: Illustration of the Hoekman and Marchetti and Roy Methodology

	GATS	PTA with country A	PTA with country B	PTA with country C
Shipping - Mode 3	No commitment	New commitment, although with some limitations (partial)	Better commitment than with country A, but limitations remain (partiel)	Even better commitment than in the PTA with B, but limitations remain (partial)
	0	0.5	0.75	0.875
Handling - Mode 3	No commitment	No commitment	Full commitment	No commitment
	0	0	1	0
Storage - Mode 3	Partial commitment	Same as GATS: partial commitment	No better commitment than in GATS	Better commitment than in GATS, but limitations remain (partial)
	0.5	0.5	0.5	0.75

Source: Marchetti and Roy, 2009

[25] There were pioneers in this field - such as Australia and New-Zealand with the Closer Economic Relations (CER) in 1988 and the US, Canada and Mexico with NAFTA in 1994.

In order to code PTAs using negative lists[26] we rescheduled provisions of the agreement in a positive list. We aggregate in a simple average commitments so-coded for market access and national treatment and each sub-sector considered.

The methodology can be criticised on several grounds. First of all, "absolute preference margin" does not reflect the real restrictiveness of commitments, especially because limitations in partial commitments are not measured very precisely. They are not measured according to their real level of restrictiveness. Nevertheless, considering the resources needed to construct an aggregated index, our "guesstimates" are sufficient to assess and compare the depth of different commitments.

Second, we could criticize what is really measured using the Marchetti and Roy methodology. As soon as we study commercial policy we are confronted with the difference between bound and applied regime. Just as there is "water in tariffs", there is "water in regulations". As shown by Mattoo et al. (2009) the phenomenon is important for services. First, because GATS commitments have not been discussed since Marrakech and countries have undertaken unilateral reform in maritime transport. Second, because many countries retain some room to implement more restrictive regulations. So, we do not compute real preference (difference between preferential treatment and applied regime) with the methodology, but potential preference (difference between bound and preferential regime)[27]. For this reason, in their article, Marchetti and Roy (2008) preferred to speak about GATS+ commitments in PTAs. In the absence of data on the applied MFN regime we are not able to address this issue satisfactorily to date[28].

Table 7: Potential and real preference, what we measure?

<table>
<tr><td rowspan="3">Protectionnist</td><td>MFN bound - GATS commitment</td><td colspan="2">Potential preference</td><td rowspan="3">Liberal</td></tr>
<tr><td colspan="2">Water in regulation</td><td rowspan="2">Real preference [a]</td></tr>
<tr><td colspan="2">MFN applied regime</td></tr>
<tr><td colspan="3">Preferential regime committed</td></tr>
</table>

Notes: [a] We make the assumption that there is no gap between preference committed and applied preference.

Our analysis focuses on international freight shipping, auxiliary services (which consist of the following: cargo handling, storage and warehousing, container station and depot, maritime agency and

[26] In the GATS framework (and in some PTAs) members make commitments through a positive list approach – i.e. they mention sectors they want to liberalize. On the opposite some PTAs (like the NAFTA) use a negative list approach which consists in liberalizing all sectors except those mentioned in the list.

[27] Here we made the assumption that commitments in PTAs are really applied. Nevertheless the same comment could be made on the difference between these two regimes - as we show for CSAs. This issue is even more complicated. If the Most Favoured Nation applied regime is necessarily more liberal than the MFN (in absence of an operational dispute settlement body), the applied preferential could be more or less restrictive than the committed preference.

[28] It is the purpose of the MAritime Transport Restrcitivness IndeX (MATRIX) project which is in progress. We are currently compiling information on the maritime transport sector applied regime for thirty countries. Hence, we will be able to compute real preference granted.

freight forwarding) and access to port and related services according to the GATS framework[29]. We focus on mode 1 and mode 3 which are the most important modes for the provision for maritime transport.

Table 8: GATS commitments scores for different countries in maritime transport

		Score			Score
1	Korea	0.80	10	Indonesia	0.21
2	China	0.73	11	EC	0.19
3	Singapore	0.52	12	Algeria	No Comm.
4	Australia	0.45	13	Chile	No Comm.
5	Canada	0.43	14	India	No Comm.
6	Malaysia	0.42	15	Mexico	No Comm.
7	Thailand	0.33	16	Morocco	No Comm.
8	New Zealand	0.31	17	South Africa	No Comm.
9	Japan	0.22	18	USA	No Comm.

Source: Calculation by the author.

Note: Algeria is not a member of WTO.

In GATS, deeper commitments were made by dynamic East-Asian countries: Singapore, South Korea, and China. The high level of commitment offered by China could be explained by the accession negotiations, which finished almost ten years after the negotiations among former GATT members. Moreover accession negotiation are always more demanding than multilateral negotiations (Marchetti et al., 2008). By contrast, the weakest commitments were offered by developed countries with important interests in maritime transport: Japan, EC and United States. The weak commitment by the EC can probably be explained as a response of lack of US commitment in the sector.

[29] In GATS, countries could commit to make port services available to international maritime transport suppliers on reasonable and non discriminatory terms and conditions.

Table 9: Absolute preference margin granted comparing to GATS commitment

	Provider	Partner	Year [a]	Abs. PM		Provider	Partner	Year [a]	Abs. PM
1	Mexico	NAFTA	1992	0.92	**26**	Australia	Chile	2008	0.24
2	Morocco	USA	2004	0.90	**27**	Singapore	India	2005	0.22
3	Mexico	Chile	1998	0.85	**28**	Algeria	EC	2002	0.19
4	Mexico	Japan	2004	0.85	**29**	China	Hong-Kong	2004	0.17
5	Chile	Canada	2008	0.84	**30**	South Africa	EC	1999	0.14
6	Chile	Australia	2008	0.82	**31**	Korea	Singapore	2005	0.13
7	Chile	Mexico	1998	0.77	**32**	Korea	Chile	2003	0.11
8	Chile	Korea	2003	0.73	**33**	Thailand	Japan	2007	0.10
9	Chile	USA	2003	0.73	**34**	Indonesia	Japan	2007	0.09
10	Chile	EC	2002	0.67	**35**	USA	NAFTA	1992	0.06
11	New Zealand	Australia	1988	0.64	**36**	USA	Chile	2003	0.06
12	EC	Chile	2002	0.63	**37**	USA	Australia	2004	0.05
13	Japan	Mexico	2004	0.59	**38**	USA	Morocco	2004	0.05
14	Japan	Malaysia	2005	0.55	**39**	Singapore	Korea	2005	0.04
15	Japan	Thailand	2007	0.52	**40**	Singapore	USA	2003	0.03
16	Australia	New Zealand	1988	0.50	**41**	China	New Zealand	2008	0.02
17	Canada	Chile	2008	0.45	**42**	Malaysia	Japan	2005	0 [b]
18	Japan	Singapore	2002	0.44	**43**	Singapore	China	2008	0 [b]
19	India	Singapore	2005	0.36	**44**	USA	Singapore	2003	0 [b]
20	Australia	Singapore	2003	0.36	**45**	New Zealand	China	2008	0 [b]
21	Japan	Indonesia	2007	0.34	**46**	EC	Algeria	2002	0 [b]
22	Australia	USA	2004	0.31	**47**	China	Singapore	2008	0 [b]
23	Singapore	New Zealand	2000	0.31	**48**	Singapore	Australia	2003	0 [c]
24	Singapore	Japan	2002	0.31	**49**	EC	South Africa	1999	0 [c]
25	New Zealand	Singapore	2000	0.27	**50**	Canada	NAFTA	1992	0 [c]

Source: Calculation by the author.

Note: Absolute preference margin = PTA score - GATS score. [a] Year of signature of the agreement. [b] The PTA score is equal to the GATS score. [c] The PTA score is lower than the GATS score, so we assume a preference margin equal to zero.

Broadly speaking, preferences in the maritime sector could seem weak. Indeed, in our sample the median of "absolute preference margin" is 0.26 for an average of 0.33. Nevertheless, variance is high. In other words, the dispersion of absolute preference margin granted by each partner in each agreement is significant. The preference granted by Mexico, Chile and to a lesser extent Japan, to their partners is substantial. By contrast, the preference score for the United States or EC is close to zero.

Moreover, as shown in Table 10, the variance of absolute preference within the agreements of a country is small: less than 0.02 in most cases. That is to say countries are inclined to offer to their partners a similar level of preferences regardless of the power of these partners and regardless of what is offered by these partners – i.e. nor influenced by reciprocity[30]. The year of the negotiation does not seem to influence the level of preferences granted either. Except for few exceptions this is confirmed by looking at Table 9. We identify three groups: partners that grant a high level of preference (Mexico and Chile), countries granting a medium level of preference (Australia and Japan) and countries that grant a low level of preference (China, Korea, Singapore and United States).

[30] As we are in sectoral study it is logical that reciprocity does not play a part in the level of preference granted. Indeed, reciprocity works for the entire negotiation.

Table 10: Variance of absolute preference margin among the agreements of each country

Level of Pref.	Provider	Obs.	Pref. Min.	Pref. Max.	Variance	Score GATS
High	Mexico	3	0.85	0.92	0.001	0
	Chile	6	0.67	0.84	0.004	0
Medium	Japan	5	0.34	0.59	0.010	0.22
	Australia	4	0.24	0.50	0.012	0.45
Low	Korea	2	0.11	0.13	0.000	0.80
	China	3	0	0.17	0.009	0.73
	Singapore	7	0	0.31	0.021	0.52
	USA	5	0	0.06	0.001	0.00
High Variance	New Zealand	3	0	0.64	0.106	0.31
	EC	3	0	0.63	0.143	0.19
	Canada	2	0	0.45	0.338	0.43

Source: Calculation by the author.

Note: Only countries that signed more than one PTA containing preferential provisions on maritime transport.

Considering comments made above we can say that a country's preference granted to a new partner is mostly equivalent to the preference it has already granted to all of its other bilateral partners. The preference granted is also influenced by the level of GATS commitments. The smaller the GATS score of a country, the greater the level of preference granted. This is true for Mexico and Chile but also for Japan, Australia and to a lesser extent for China, Republic of Korea and Singapore. The United States are the exception, their GATS score is zero and in the same time the level of preference granted is weak.

Table 11: Absolute preference granted by sector and by mode

	All GATS (MA&NT)	All PTAs (MA&NT)	Abs. PM (MA&NT)
Shipping - Mode 1	0.361	0.738	0.376
Shipping - Mode 3 - a [a]	0.167	0.415	0.248
Shipping - Mode 3 - b [b]	0.264	0.680	0.416
Cargo handling - Mode 3 [c]	0.097	0.535	0.438
Storage and wharehousing - Mode 3 [c]	0.292	0.559	0.267
Container Station and depot - Mode 3 [c]	0.153	0.480	0.327
Maritime agency - Mode 1	0.278	0.710	0.432
Maritime agency - Mode 3	0.208	0.695	0.487
Freight forwarding - Mode 1	0.319	0.564	0.244
Freight forwarding - Mode 3	0.347	0.592	0.245
Access and use of ports services [d]	0.444	0.469	0.025
TOTAL	0.257	0.590	0.334

Source: Calculation by the author.

Note: [a] For the purpose of operating a fleet under the national flag. [b] Commercial presence that allows a foreign maritime company to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated service. [c] For these services provision in mode 1 is not technically feasible.

In most cases, the level of preference granted – i.e. the evolution of scores – is due to a switch from an unbound to a partial commitment, from a partial commitment to a full one or from an unbound to a full

commitment. Actually, switching from one limitation (partial commitment) to a less restrictive limitation (another partial commitment) is rare. Then, preference granted is almost always more important in mode 3 than in mode 1. From a sectoral point of view, the most important preference margins are granted to cargo handling, maritime agency and international freight shipping in mode 3-b and at lesser extent international freight shipping in mode 1. Interestingly, as for countries, these are the sub-sectors where GATS commitments are the weakest and where preferences granted are the most important. This is not true for international shipping in mode 3which is very sensible. Potential preference granted in some auxiliary services could be explained by the transformation that these sectors have undergone over the last ten years – i.e. transition from tool ports to landlord ports.

As stated in the first part, the content of a few BMAs is close to that of PTAs. They provide for preferential liberalization of international shipping on cross border trade, for preferential liberalization of commercial presence in international shipping and in crucial auxiliary services, for non discrimination in the access to port and related services. The preference granted by some BMAs could be substantial. Moreover some of these BMAs are signed between major economic partners: China, EC, United States. Regarding these remarks, it seems important to make a comparison between preferences granted by these new generation of BMAs and preferences granted by PTAs in services. To that end, we use the Hoekman and Marchetti and Roy methodology.

Table 12: Absolute preference granted by new generation BMAs

Provider	Partner	Score PTAs	Abs. PM
EC	China	0.88	0.69
China	EC	0.88	0.15
USA	Viet-Nam	0.20	0.20
France [a]	South Africa	0.19	0.00
China	USA	0.20	0 [b]
USA	China	0.15	0.15

Notes : [a] GATS score for EC. [b] Less than zero.

Table 12 shows that preference granted by EC and United States to China is more important than preference granted in any other PTAs signed by these countries. Hence, most BMAs are hollow and empty shells but, in their modern form they could be used to grant preference[31]. BMAs would rather be complementary than a substitute to PTAs. The strength of BMAs is to be sectoral.

Conclusion and Policy Implications

To conclude, as we saw in part one literature sometimes misinterpret the functioning and the impact of some measures. For instance, McGuire et al. (2000) misinterpret the impact of CSAs for the

[31] According to experts, no real preference are granted by the EC side in the EC/China maritime agreement despite some is granted from the Chinese side.

calculation of their restrictiveness index, although their methodology has been used in different papers for assessment of the impact of regulation on transport cost[32]. Hence, the results of these papers could be improved a better understanding of the sector's functioning.

Then, we can draw two main conclusions on preferential treatment in maritime transport. First, we observe a paradigm shift in BMAs. From the early 1990s the preferential treatment in maritime transport became more liberal. This conclusion is valid for the design of the agreements signed from this period but also for the implementation of the agreements signed before this period. Indeed, the few bilateral cargo reservations applied disappeared during this decade. Their progressive extinction can be explained by changes in the organization of the sector – deflagging process and above all transhipment. Nevertheless, when BMAs become less protectionist (and even less mercantilist) most of them do not liberalize maritime transport market nor grant preferences. Second, from 2000 we observe a paradigm shift from sector specific (BMAs) to PTAs as a form of preferential scheme in maritime transport services. In comparison to the old scheme, the new one is more complete in terms of sub-sectors and mode coverage. We showed that potential preferences granted through PTAs are substantial for some countries. Nevertheless, rapid development of PTAs does not mean the end of BMAs. Relative important level of preference granted by EC-China and United States-China agreements is the best example. BMAs and PTAs can be viewed more as complementary than as a substitute.

Issuance of UN Liner Code was not a success. Countries that want to apply the UN Liner Code had a disadvantage (high price, corruption) without supposed advantages for domestic maritime companies. Moreover, no impact assessment or monitoring has ever been performed by UNCTAD. The first recommendation would be to denounce the UN Liner Code. The second recommendation would be to repeal all CSAs which are currently not applied. Despite the fact that these agreements are not applied there is a risk of resurgence. Repealing the CSAs and the UN Liner Code would allow for a better visibility on what is applied and what is not applied.

This study is a first step. The next step will be to construct a composite indicator of regulation in maritime transport representing as much as possible the realities of today's maritime transport sector and taking into account the most favoured nation and preferential applied scheme in the sector. The conclusions of this paper will be used to compute bilateral indices for each maritime routes.

[32] Kang (2000), Achy et alii (2005)

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Annex 1: Summary of Bilateral Maritime Agreements

Partners		Signature	Status	Type of CSA	Port and related services	Commercial presence	MFN exemption	
A	B						A	B
France	Gabon	1960	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
France	Ivory Coast	1961	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Niger	1961	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Ivory Coast	1962	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Russia (Former USSR)	India	1962	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Brazil	Germany (former FRG)	1963	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
Germany (former GDR)	India	1963	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Egypt [a]	India	1964	unk.	CSA	No pref.	No	Valid	Valid
Germany (former FRG)	Tunisia	1966	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Germany (former FRG)	India	1966	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
France	Algeria [b]	1967	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Russia (Former USSR)	France	1967	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Russia (Former USSR)	India	1967	unk.	CSA	No pref.	No	Non member	Valid
Turkey	Austria	1967	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Brazil	Argentina	1968	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Algeria	Bulgaria	1969	unk.	CSA	No pref.	No	Non member	Not valid
Egypt	Bulgaria	1969	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Russia (Former USSR)	Netherland	1969	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
India	Poland	1970	unk.	CSA	No pref.	No	Not valid	Valid
Russia (Former USSR)	Bulgaria	1971 [c]	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Russia (Former USSR)	Hungary	1972 [c]	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Russia (Former USSR)	Poland	1973 [c]	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Russia (Former USSR)	Germany (former GRD)	1974 [c]	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Russia (Former USSR)	Romania	1975 [c]	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Russia (Former USSR)	Czechoslovakia	1976 [c]	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Algeria	Libya	1972	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	Guinea	1972	unk.	CSA	Other	No	Non member	Valid
Brazil	Russia (Former USSR)	1972	unk.	CSA	Pot. pref.	No	Valid	Non member
Egypt	Romania	1972	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
Russia (Former USSR)	Belgium	1972	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	Italy	1972	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	United States	1972	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Algeria	Russia (Former USSR)	1973	unk.	CSA	Pot. pref.	Yes	Non member	Non member
Brazil	Peru	1973	unk.	CSA	Other	No	Valid	Valid
France	Poland	1973	unk.	Confusing	No pref.	No	n.r.	n.r.
Russia (Former USSR)	Sweden	1973	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Russia (Former USSR)	Denmark	1973	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Brazil	Chile	1974	unk.	CSA	Other	No	Valid	Valid
Brazil	Mexico	1974	unk.	CSA	Other	No	Valid	Valid
China	Denmark	1974	unk.	Confusing	No pref.	No	n.r.	n.r.
China	Japan	1974	unk.	Confusing	No pref.	No	n.r.	n.r.
France	Congo	1974	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
France	Romania	1974	unk.	Confusing	No pref.	No	n.r.	n.r.
France	Senegal	1974	unk.	No CSA	Other	No	n.r.	n.r.
Algeria	Poland	1975	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Brazil	Romania	1975	unk.	CSA	No pref.	No	Valid	Valid
Brazil	Uruguay	1975	unk.	CSA	Other	No	Valid	Valid
Brazil	France	1975	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
China	France	1975	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
China	Belgium [d]	1975	unk.	Confusing	No pref.	No	n.r.	n.r.
China	Netherland	1975	unk.	Confusing	No pref.	No	n.r.	n.r.
China	Germany (former FRG)	1975	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
France	Benin	1975	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
France	Egypt	1975	In force	CSA	Pot. pref.	No	Valid	Valid
India	Pakistan	1975	unk.	CSA	No pref.	No	Valid	Valid
Russia (Former USSR)	Greece	1975	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	Guinea Bissau	1975	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	United States	1975	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Sweden	China	1975	unk.	Confusing	No pref.	No	n.r.	n.r.
Algeria	Cape Verde	1976	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Brazil	Poland	1976	unk.	CSA	Pot. pref.	No	Valid	Valid
China	Romania	1976	unk.	Confusing	No pref.	No	n.r.	n.r.
France	Ivory Coast	1976	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Libya	1976	unk.	Confusing	No pref.	No	n.r.	n.r.
France	Togo	1976	unk.	Confusing	Other	No	n.r.	n.r.
Italy	Egypt	1976	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Russia (Former USSR)	Mozambique	1976	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	Angola	1976	unk.	Confusing	Other	No	n.r.	n.r.
Russia (Former USSR)	Libya	1976	unk.	Confusing	No pref.	No	n.r.	n.r.
Russia (Former USSR)	Zaire	1976	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
United States	Romania [e]	1976	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
China	Finland	1977	unk.	Confusing	No pref.	No	n.r.	n.r.

Annex 1: Summary of Bilateral Maritime Agreements (continuation)

Partners		Signature	Status	Type of CSA	Port and related services	Commercial presence	MFN exemption	
A	B						A	B
Egypt	Poland	1977	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Gabon	1977	unk.	Confusing	No pref.	No	n.r.	n.r.
Brazil	Portugal	1978	unk.	CSA	Pot. pref.	No	Valid	Valid
France	Djibouti	1978	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Mexico	Bulgaria	1978	unk.	CSA	Pot. pref.	Yes	Valid	Not valid
Russia (Former USSR)	Ethiopia	1978	unk.	CSA	No pref.	No	Non member	Valid
Russia (Former USSR)	Mexico	1978	unk.	CSA	Pot. pref.	No	Non member	Valid
United States	Argentina	1978	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Algeria	Belgium [d]	1979	unk.	CSA	Pot. pref.	No	Non member	Valid
Brazil	Germany (former FRG)	1979	unk.	CSA	Pot. pref.	No	Valid	Valid
Brazil	China	1979	unk.	Confusing	No pref.	No	n.r.	n.r.
China	Thailand	1979	unk.	Confusing	No pref.	No	n.r.	n.r.
Germany (former GDR)	Mexico	1979	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Germany (former GDR)	Belgium	1979	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Morocco	Spain	1979	unk.	CSA	Other	No	Valid	Valid
Morocco	France	1979	unk.	CSA	Pot. pref.	No	Valid	Valid
Russia (Former USSR)	Madagascar	1979	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	Pakistan	1979	unk.	CSA	Pot. pref.	No	Non member	Valid
Spain	Equatorial Guinea	1979	unk.	CSA	Other	No	Valid	Non member
Spain	Senegal	1979	unk.	CSA	Other	No	Valid	Valid
Spain	Ivory Coast	1979	unk.	CSA	Pot. pref.	No	Valid	Valid
Thailand	Viet-Nam	1979	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
China	United States	1980	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Spain	Mexico	1980	unk.	CSA	Pot. pref.	No	Valid	Valid
Egypt	Greece	1981	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Germany (former GDR)	Greece	1981	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Russia (Former USSR)	Malta	1981	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	Sao Tomé	1981	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
South Korea	Singapore	1981	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Spain	Gabon	1981	unk.	CSA	Pot. pref.	No	Valid	Valid
United States	Bulgaria	1981	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
Brazil	Ecuador	1982	unk.	CSA	Other	No	Valid	Valid
Brazil	Bulgaria	1982	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Russia (Former USSR)	Sri Lanka	1982	unk.	CSA	Pot. pref.	Yes	Non member	Valid
Algeria	Albania	1983	unk.	CSA	No pref.	No	Non member	Valid
Spain	Russia (Former USSR)	1983	unk.	CSA	Pot. pref.	Yes	Valid	Non member
China	Mexico	1984	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Mexico	Netherland	1984	unk.	CSA	Pot. pref.	No	Valid	Valid
United States	Bulgaria	1984	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	Iraq	1985	unk.	CSA	Pot. pref.	No	Non member	Non member
Brazil	Argentina	1985	unk.	CSA	Other	No	Valid	Valid
Egypt	Jordan	1985	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Malaysia	Belgium [d]	1985	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
Russia (Former USSR)	Cyprus	1985	unk.	Confusing	No pref.	No	n.r.	n.r.
Spain	Tunisia	1985	unk.	CSA	Pot. pref.	Yes	Valid	Valid
France	Burkina Faso	1986	unk.	Confusing	Pot. pref.	No	n.r.	n.r.
United States	Brazil [f]	1986	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Algeria	Italy	1987	unk.	CSA	Pot. pref.	No	Non member	Valid
China	Malaysia	1987	unk.	Confusing	Other	No	n.r.	n.r.
Malaysia	Russia (Former USSR)	1987	unk.	CSA	No pref.	Yes	Valid	Non member
Turkey	Albania	1987	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
United States	Peru	1987	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
China	United States [g]	1988	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
Egypt	Bangladesh	1988	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Turkey	1988	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Iraq	1988	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Malaysia	Indonesia	1988	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Thailand	Bangladesh	1988	unk.	CSA	Pot. pref.	No	Not valid	Valid
Egypt	Morocco	1989	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Tunisia	1989	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Singapore	China	1989	unk.	CSA	No pref.	No	Valid	Not valid
Egypt	Syria	1990	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Russia (Former USSR)	United States [h]	1990	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Saudi Arabia	Egypt	1990	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Brazil	United States	1991	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Germany	Russia (Former USSR)	1991	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Indonesia	Viet-Nam	1991	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
United States	Venezuela	1991	n.v.	CSA	n.v.	n.v.	n.r.	n.r.
Egypt	Libya	1992	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Tunisia	1992	unk.	CSA	No pref.	No	Valid	Valid
Indonesia	Iran	1992	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Singapore	Viet-Nam	1992	unk.	CSA	No pref.	No	Valid	Valid
United States	Ukraine	1992	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.

Annex 1: Summary of Bilateral Maritime Agreements (continuation)

Partners		Signature	Status	Type of CSA	Port and related services	Commercial presence	MFN exemption	
A	B						A	B
Algeria	Tunisia [i]	1993	unk.	CSA	Other	Yes	Non member	Valid
Germany	Ukraine	1993	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
Germany	Viet-Nam	1993	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
South Korea	China	1993	unk.	CSA	No pref.	Yes	Valid	Not valid
Canada	Viet-Nam	1994	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Korea	Uk (& Nothern Ireland)	1994	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
Algeria	Egypt	1995	unk.	CSA	Other	No	Non member	Valid
Algeria	Germany	1995	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
Chile	Germany	1995	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
South Africa	Netherland	1995	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Korea	Netherland [j]	1995	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
South Korea	Viet-Nam	1995	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
China	Uk (& Nothern Ireland)	1996	unk.	No CSA	No pref.	Yes	n.r.	n.r.
Egypt	North Korea	1996	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	China	1996	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Turkey	1996	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Germany	Indonesia	1996	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Indonesia	Jordan	1996	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
South Africa	Mozambique	1996	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	Jordan	1997	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Algeria	Cyprus	1997	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
China	Israel	1997	unk.	Confusing	No pref.	Yes	n.r.	n.r.
China	Canada	1997	In force	Confusing	No pref.	Yes	n.r.	n.r.
Egypt	Yemen	1997	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Ukraine	1997	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Russia	1997	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
France	Latvia	1997	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Malaysia	South Africa	1997	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Singapore	Myanmar	1997	n.v.	Confusing	n.v.	n.v.	n.r.	n.r.
Egypt	China	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Lebanon	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	South Africa	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Germany	Egypt	1998	In force	No CSA	Pot. pref.	Yes	n.r.	n.r.
Germany	South Africa	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Greece	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Algeria	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	France	1998	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
Turkey	Algeria	1998	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Georgia	1999	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Tunisia	1999	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Iran	1999	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Thailand	Peru	1999	unk.	No CSA	No pref.	No	n.r.	n.r.
France	Ukraine	2000	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
France	Viet-Nam	2000	unk.	No CSA	No pref.	Yes	n.r.	n.r.
Singapore	Germany	2000	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	China	2000	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	Soudan	2001	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Algeria	Germany	2001	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Indonesia	China	2001	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Russia	United States	2001	In force	No CSA	No pref.	No	n.r.	n.r.
South Africa	Cuba	2001	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Thailand	Germany	2001	unk.	No CSA	Other	Yes	n.r.	n.r.
Algeria	Syria	2002	unk.	Confusing	No pref.	Yes	n.r.	n.r.
China	EC	2002	n.v.	No CSA	n.v.	n.v.	n.r.	n.r.
Egypt	Romania	2002	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Egypt	Soudan	2002	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	South Korea	2003	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
China	Germany	2003	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
China	United States	2003	In force	No CSA	No pref.	Yes	n.r.	n.r.
Russia	Israel	2003	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	France	2004	unk.	No CSA	Pot. pref.	Yes	n.r.	n.r.
China	Latvia	2004	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Turkey	Sudan	2004	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Turkey	Syria	2004	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Brazil	United States	2005	In force	CSA	Pot. pref.	Yes	Valid	Valid
Colombia	Ecuador	2005	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Mexico	China	2005	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Russia	South Africa	2005	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Gabon	2005	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Turkey	Albania	2005	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
Turkey	Ethiopia	2005	unk.	No CSA	No pref.	No	n.r.	n.r.
Algeria	Congo (D.R.)	2006	unk.	Confusing	Pot. pref.	Yes	n.r.	n.r.
Egypt	Cyprus	2006	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Congo (D.R.)	2006	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
Algeria	Libya	2007	unk.	No CSA	Pot. pref.	No	n.r.	n.r.
China	Lituania	2007	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
South Africa	Tanzania	2007	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
United States	Viet-Nam	2007	In force	No CSA	No pref.	Yes	n.r.	n.r.
Canada	China	2009	n.a.	n.a.	n.a.	n.a.	n.r.	n.r.
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Sources: UN Treaty website, Ministry of Transport and Foreign Affairs websites.

Notes: n.a. = non available. n.v = non valid agreement. unk. = unknown status. [a] With United Arab Republic. [b] Modified in 1972. [c] Only one agreement between all the members. [d] Extended to Luxembourg. [e] Extended in 1984. [f] Addendum to the agreement in 1998. Add an exception for government. [g] Extended in 1992. [h] Extended in 1994. [i] In the AMU framework. [j] Extended to Aruba.

Annex 2: MFN exemptions in maritime transport in GATS

CSA	GATS [a]	Segment	Share	Partner
Angola*	-	Liner	40-40-20	Not specified
Benin*	Restriction [b]	Liner	40-40-20	Not specified
Bolivia*	-	Not specified	Not specified	Andean countries
Brazil* [c]	-	Not specified	Not specified	Some members of ALADI and EC, China and USA
Bulgaria*	-	Freight	Equality in volume and in value	India
Cambodia*	Unbound	Not specified	Not specified	Not specified
Cameroon*	-	Bulk, liner and specialized cargo	40-40-20	Not specified
Chile* [c]	-	Freight	Not specified	Brazil
China [d]	None	Not specified	Not specified	Algeria, Argentina, Bangladesh, Brazil, Thailand, USA, Zaire
Congo*	-	Bulk, liner and specialized cargo	40-40-20	Not specified
Cuba*	Unbound	Not specified	Not specified	Not specified
Gabon*	-	Bulk, liner and specialized cargo	40-40-20	Not specified
India* [c]	-	Freight	Equality in volume and in value	Bulgaria, Pakistan, UAR
Ivory Coast*	-	Bulk, liner and specialized cargo	40-40-20	Not specified
Mali*	-	Bulk, liner and specialized cargo	40-40-20	Not specified
Niger*	-	Bulk, liner and specialized cargo	Not specified	Not specified
Peru*	-	Not specified	Not specified	Not specified
Philipines	None	Liner	At least 40%	Not specified
Saudi Arabia [d]	None	Not specified	Not specified	Not specified
Senegal*	-	Bulk, liner and specialized cargo	80% for partners	Not specified
Thailand* [c]	Restriction [b]	All products	Not specified	VietNam, China
Trinidad and Tobago*	-	Not specified	Not specified	Not specified
Venezuela*	Unbound	Reserved cargoes	Equal access	Not specified

Source : GATS commitment database, World Trade Organization, 2009.

Notes : * indicate members that comply with the first two rules. [a] Commitment in international shipping in mode 1. [b] Commitment in international shipping in relation with the NPF exemption. [c] Test case countries.